

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

**DA'VETTA FLOWERS**

**PLAINTIFF**

**v.**

**No. 4:18-cv-577-DPM**

**KENDALL W. PENN, Major General,  
Adjutant General for the State of Arkansas**

**DEFENDANTS**

**JUDGMENT**

1. The Court resolved some of Da'Vetta Flowers's federal and state claims in a pretrial Order. The Court now enters judgment against Da'Vetta Flowers, and for Kendall W. Penn, on these claims: her discrimination claim about her June 2018 non-promotion; her retaliation claim about her October 2018 disciplinary; her retaliation claim about being placed on a performance improvement plan in April 2019; and her retaliation claim about her June 2019 low performance evaluation. These claims are dismissed with prejudice. Flowers's whistleblower claims under Arkansas law are dismissed without prejudice.

2. The Court held a jury trial in Little Rock from 7 December 2021 to 14 December 2021 on Flowers's race discrimination and retaliation claims based on her August 2017 non-promotion. The eight-person jury returned two unanimous verdicts, *Doc. 131*, which the Court attaches and incorporates.

3. Based on the jury's first verdict, the Court enters judgment for Da'vetta Flowers on her race discrimination claim about her August 2017 non-promotion against Kendall W. Penn, in his official capacity, for \$133,804.58 in damages, post-judgment interest at a rate of 0.28%, and a reasonable attorney's fee and costs as may be allowed on later timely motion. FED. R. CIV. P. 54(d); 28 U.S.C. § 1920.

4. Based on the jury's second verdict, the Court enters judgment against Da'Vetta Flowers, and for Kendall W. Penn, on her retaliation claim about her August 2017 non-promotion. The retaliation claim is dismissed with prejudice.

5. The Court encourages the parties to confer and attempt to resolve the attorney's fees and costs issues. Flowers's deadline for filing any motion seeking those items is 31 January 2022.

*D.P. Marshall Jr.*  
D.P. Marshall Jr.  
United States District Judge

*15 December 2021*

## VERDICT FORM - RACE DISCRIMINATION

1. On Flowers's race discrimination claim against Penn, as submitted in Instruction No. 7, we find for:

✓ Flowers


           Penn

U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

**FILED**

DEC 14 2021

IN OPEN COURT  
TAMMY H. DOWNS

By:   
DEPUTY CLERK

If you found for Flowers in Question 1, then answer Question 2. If you found for Penn in Question 1, then your deliberations on this verdict are done. Your foreperson should sign and date this form.

2. Has it been proved that the Department would have chosen not to promote Flowers regardless of her race?

           Yes

✓ No

If you answered "No" in Question 2, then answer Question 3 and Question 4. If you answered "Yes" in Question 2, then skip Question 3 and Question 4 and answer Question 5.

3. We find Flowers's lost wages and benefits through the date of this verdict to be:

\$ 105,804.58

4. We find Flowers's other monetary damages, excluding lost wages and benefits, to be:

\$ 28,000

If your answers to Question 3 and Question 4 are both "0", then you must award Flowers nominal damages of \$1.00 in Question 5.

If you entered a number greater than "0" in either Question 3 or Question 4, then your deliberations on this verdict are done. Skip Question 5.

5. We find Flowers's nominal damages to be \$ \_\_\_\_\_, as submitted in Instruction No. 14.

Your foreperson should date and sign this verdict.

[Signature]  
Foreperson

12/14/21 1600  
Date/time



## VERDICT FORM - RETALIATION

1. On Flowers's retaliation claim against Penn, as submitted in Instruction No. 14, we find for:

\_\_\_\_ Flowers  
✓  
\_\_\_\_ Penn

U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS  
**FILED**

DEC 14 2021

IN OPEN COURT  
TAMMY H. DOWNS  
By: \_\_\_\_\_  
DEPUTY CLERK

If you found for Flowers in Question 1, then answer Question 2 and Question 3. If you found for Penn, your deliberations are done. Your foreperson should sign and date this form.

2. We find Flowers's lost wages and benefits through the date of this verdict to be:

\$ \_\_\_\_\_

3. We find Flowers's other monetary damages, excluding lost wages and benefits, to be:


\$ \_\_\_\_\_

If your answers to Question 2 and Question 3 are both "0", then you must award Flowers nominal damages of \$1.00 in Question 4.

**If you entered a number greater than "0" in either Question 2 or Question 3, then your deliberations are done. Skip Question 4.**

4. We find Flowers's nominal damages to be \$\_\_\_\_\_, as submitted in Instruction No. 14.

**Your foreperson should date and sign this verdict.**

  
Foreperson

12/14/21 1600  
Date/time